

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-218921

DATE: December 26, 1985

MATTER OF: Fly America Act's Applicability

DIGEST: The Fly America Act, requiring use of available U.S. air carriers, is not applicable where the funds paying for the air transportation are later reimbursed by a foreign government, international agency, or other organization.

The General Services Administration has asked us whether two bills submitted by the World Trade Transportation Corporation, a freight forwarder, for air transportation of unaccompanied baggage from the United States to Tel Aviv, Israel, aboard a foreign air carrier may be paid. Because the cost will ultimately be paid by the United Nations the Fly America Act does not prevent payment of these bills.

The Navy, for whom the services were performed, initially did not pay the bills because the freight forwarder furnished no certificates justifying the use of a foreign air carrier for transporting the shipments. Under the Fly America Act the Government is precluded from paying for Government-financed transportation by a foreign air carrier unless it is shown that American air carriers were unavailable. However, the Fly America Act does not preclude payment for shipments by foreign air carriers if the transportation is procured for a foreign nation or international organization with provision for reimbursement. The Fly America Act, Section 1117, Pub. L. No. 85-726, added by Section 5(a), Pub. L. No. 93-623, January 3, 1975, 88 Stat. 2104, as amended, 49 U.S.C. App. § 1517.

In the summer of 1984 the Navy transferred two officers from the United States to Israel to be military observers in Palestine. The transferring orders for both service members stated that the travel costs and the cost of shipping baggage would ultimately be reimbursable from the United Nations. The transportation officers making the shipping arrangements assumed that the officers were being assigned to the Multi-National Force and Observers in Palestine. For those so assigned, service-wide shipping instructions required all unaccompanied baggage to

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be routed to the World Trade Transport Corporation at Dulles International Airport in Washington, D.C. World Transport, under a special contract with the Multi-National Force, transported such baggage to Palestine. However, the Multi-National Force refused payment of the freight forwarder's bills because these officers were not assigned to the Multi-National Force but were assigned to the U.N. Truce Supervision Organization.

However, as indicated, the requirements of the Fly America Act do not apply where the funds used to pay for the air transportation are reimbursed by a foreign government, international agency, or other organization. Since it now appears clear that the U.N. Truce Supervision Organization, an international agency, will reimburse the transportation charges for unaccompanied baggage of the officers who were assigned to it, the charges here involved may be paid from available Federal funds and reimbursement claimed from the U.N. Truce Supervision Organization.

for Milton J. Fowler
Comptroller General
of the United States